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271320Z Sep 04

C O N F I D E N T I A L SECTION 01 OF 03 ANKARA 005527

SIPDIS

DEPARTMENT FOR EUR/SE

E.O. 12958: DECL: 09/27/2014

TAGS: [PGOV](#) [PREL](#) [PHUM](#) [TU](#)

SUBJECT: TURKEY'S EU CANDIDACY AND THE ADULTERY

CONTROVERSY: SHREWD BARGAINING OR MISREADING THE EU?

REF: A. ANKARA 5310

[1](#)B. ANKARA 5350

[1](#)C. ANKARA 5200

[1](#)D. ANKARA 5114

[1](#)E. ANKARA 5113

(U) Classified by Polcouns John Kunstader; reasons: E.O. 12958 1.4 b and d.

[1](#)1. (C) Summary: Embassy contacts in ruling AK Party (AKP) say PM Erdogan was personally in charge of the effort to criminalize adultery in the new Penal Code, pursuing the matter until finally backing down during a September 23 visit to Brussels. With the issue resolved, EU contacts say the EU in December will likely set a date to begin accession talks with Turkey. While some AKP MPs maintain that Turkey's critics in Europe distorted the issue in an effort to undermine Turkey's EU bid, our EU contacts think Erdogan's handling of the issue, including his public rebuke against EU "pressure," has damaged Turkey's image in Europe and strengthened the hand of those who want to slow down the process. Erdogan, meanwhile, appears to be using the pro-AKP press to promote the line that he created the adultery controversy as part of a clever strategy to force the EU to drop what he came to believe were plans to set new requirements for beginning accession talks. End Summary.

Conflict Exposes Flaws

[1](#)2. (C) Conflict between the GOT and the EU over the GOT's apparent efforts to insert an article criminalizing adultery and fornication in the new Penal Code (reftels) was resolved September 23 when PM Erdogan told EU Enlargement Commissioner Verheugen in Brussels that he would drop the adultery clause and move to adopt the new Penal Code quickly. The Turkish Parliament met in special session September 26 and adopted the Code (details septel). Our EU contacts in Ankara, mirroring their counterparts in Brussels, think the agreement lays the groundwork for the EU in December to set a 2005 date to begin the harmonization process ("accession negotiations") with Turkey. However, the GOT's, particularly Erdogan's, handling of the conflict has raised questions about the sincerity of the GOT's commitment to reform, and exposed the PM's deep misunderstanding of the EU. AKP's critics, both in Turkey and abroad, argue that the ruling party displayed its true, Islamist, face during the conflict more clearly than at any other time since coming to power in 2002.

PM, Not Grassroots, Behind Adultery Law

[1](#)3. (C) Contacts from across the AKP spectrum -- including party vice chairman for political and legal affairs Dengir Firat; chairman of the parliamentary Justice Committee Koksall Toptan; and iconoclastic member of the Human Rights Committee Ersonmez Yarbay -- told us the idea of adding the controversial adultery clause came from Erdogan and his immediate circle. Firat said AKP parliamentarians were focused on passing the Penal Code as a means to propel Turkey's EU candidacy, not on the adultery issue. Toptan claimed EU Enlargement Commissioner Verheugen had not been clear in warning Erdogan in private about the adultery law during his September 4-9 visit to Turkey (ref D). As a result, Erdogan, underestimating EU opposition, made a strong public statement vowing to press ahead on the issue. Despite mounting EU criticism, the PM was reluctant to back down after taking a stand, and decided to halt progress on the Penal Code to allow himself time to soften the opposition to the adultery clause. A number of contacts reiterated the rumor we reported previously, that it was Erdogan's wife Emine who relentlessly pressed him to add the adultery clause.

[1](#)4. (C) Yarbay, a pious Muslim affiliated with the political-Islam Milli Gorus (National View) movement but at the same time a refreshing iconoclast on a wide range of issues, emphasized to us that the proposal on adultery did

not emerge as a result of pressure by conservative or religious AKP members. There was no grassroots demand for adding this element to the Penal Code (Note: results of our Sept. 24-26 tour of the strongly conservative eastern Anatolian province of Erzurum, where one would expect anti-adultery sentiment to be high, supported Yarbay's contention: it was clear from reactions that too many men would find criminalization of adultery hitting too close to home. End Note).

15. (C) There is no need for a criminal law on adultery; there has not been an increase in adultery since the previous adultery law was revoked in 1996, Yarbay argued. Furthermore, the proposal would not have been consistent with Islam. Although Islam does not distinguish between adultery and pre-marital sex (the Turkish word "zina" includes both), the law would have punished only married people engaging in sex out of wedlock. In addition, Muslims are not supposed publicly to disclose sins such as adultery. Addressing such sins in the courtroom clearly contradicts Islam, he said. To make matters worse, married men patronizing Turkey's legal, licensed brothels would not have been found in violation of the law. Yarbay scoffed at claims by some party members that an AKP poll shows support among party members for criminalizing adultery. He said the party poll was "manipulated," with the questions carefully designed to elicit certain responses (Note: Radikal daily newspaper published the results of a 1999 survey showing that a plurality of Turks believes adultery should be considered grounds for divorce. End Note).

Other AKP MPs: Issue Blown Out of Proportion

16. (C) Some AKP contacts argued that Turkey's European critics misinterpreted the adultery proposal and blew the issue out of proportion. They view the harsh criticism as the result of an orchestrated effort by those who oppose Turkey's EU candidacy and suspect AKP of having a secret, Islamist agenda. Firat, seen as too lax a Muslim and even as an "infidel" by more publicly zealous AKP MPs, maintained that the EU should not be so suspicious of AKP. Making repeated, snide references to "our EU friends", he argued that the EU should have raised the issue privately with party leaders before going public.

17. (C) The more conservative chairman of the parliamentary Human Rights Committee Mehmet Elkatmis and his grandstanding deputy chairman Cavit Torun averred that the adultery law was designed to create a deterrent, not to put people in jail. A spouse would have had to file a complaint to initiate an investigation, and the crime would have carried a short statute of limitations. The maximum penalty would have been six months to one year imprisonment, the kind of penalty that judges routinely convert to a fine. Elkatmis and Torun, both lawyers, claimed the proposal would have protected women, and the family structure, which is "sacred" in Turkish culture. (Note: As a counterpoint, Husnu Ondul, a leftist and president of the Human Rights Association, maintained to us that the widely held view among Turks that family structure is more important in Turkey than in the West is a "myth." Moreover, he said it is a dangerous myth. For example, he noted that "honor killings" -- the killing by immediate family members of women suspected of being unchaste -- are also committed under the guise of protecting the family structure. End Note). Elkatmis averred that the debate over the adultery law obscured the image of a Penal Code draft featuring progress on various human rights fronts.

EU Officials: PM Damaged Turkey's Image

18. (C) Ankara-based officials from the EU Commission and a number of member-state embassies say Erdogan's handling of the issue has damaged Turkey's image in Europe. They predict the EU will still set a date in December for accession talks, but believe the PM's actions have strengthened the hand of those who want to place strict conditions on that date. Particularly harmful was Erdogan's public rebuke of the EU for "pressuring" Turkey over the issue. How, they ask, could the leader of a country that wants to join the EU make such a statement? Toptan acknowledged the rebuke was a mistake, but said Erdogan was reacting emotionally to the overheated European criticism. However, a diplomat from the Dutch Embassy assesses the problem as having deeper roots. Erdogan does not appear to understand that joining the EU means giving up a portion of sovereignty. He also fails to recognize that support for Turkey in the EU is fragile, and did not see that failure to adopt the Penal Code could have tipped the scales the wrong way in December.

PM Uses Press to Protect Image

9. (C) Erdogan, meanwhile, has maneuvered to limit the damage to his image domestically from his and his government's flip-flops on the issue. AKP twice backed down on the adultery issue after Erdogan had publicly dug in his heels -- first, when AKP and the opposition CHP agreed to advance the Code without the adultery clause (Erdogan was out of the country at the time and, according to some reports, was not consulted), and then again during the PM's trip to Brussels. Pro-AKP newspapers have been putting forth the theory that Erdogan raised the adultery issue to undercut what some Turkish conspiracy theorists alleged were EU attempts to add new requirements for Turkey to begin accession talks, including a rumored EU requirement that Turkey allow the Kurds to secede. Under the pro-AKP papers' scenario, Erdogan cleverly created the controversy in order to trade criminalization of adultery for an EU agreement to drop such alleged new conditions. One of our MP contacts, Torun, indicated to us he believes this theory, and AKP appears to be trying to sell this line vigorously to its grass roots.

Comment

10. (C) A number of contacts in CHP, and among other "secular" Turks, have claimed to us that AKP showed its "true face" during this controversy. They argue that AKP should be seen now for what they have always maintained it is: an Islamist wolf hiding under (EU embossed) sheep's clothing. CHP criticism lacks credibility -- the party has engaged in knee-jerk opposition to AKP-backed EU reforms and has failed to establish itself as a viable alternative to AKP.

11. (C) However, it is true that Erdogan and political advisors who many AKP MPs resentfully consider too close to him (including Egemen Bagis and Omer Celik) have revealed flaws in judgment more clearly than at any other time since Erdogan became PM. His failure to consult party members or the EU reflects his growing arrogance and remoteness; party members regularly complain to us that Erdogan no longer listens to them. His nationalistic decrying of EU interference in Turkey's internal affairs demonstrates an ignorance of what EU membership means. His decision to raise the adultery issue shortly before the October 6 EU Commission report on Turkey reflects a profound misunderstanding of the political landscape of the EU and its member states. Erdogan's political instincts are still well-honed for Anatolia, but he will have to demonstrate a much more astute reading of delicate political balances inside the EU if Turkey's candidacy is to maintain solid momentum.

EDELMAN